

VINTON HAWKINS and DIANE HAWKINS,)	3:15-cv-00516-HDM-VPC
Co-Trustees of THE HAWKINS FAMILY)	
TRUST,)	
)	ORDER
Plaintiffs,)	
)	
)	
vs.)	
)	
SANDRA ADAMS, et al.,)	
)	
Defendants.)	
)	

Removal jurisdiction under 28 U.S.C. § 1441 gives United States district courts original jurisdiction over "any civil action brought in a State court of which the district courts of the United States have original jurisdiction." 28 U.S.C. § 1441(a). Section 1332(a) provides United States district courts with original jurisdiction over "all civil actions where the matter in controversy exceeds the sum or

1 value of \$75,000, exclusive of interests and costs, and is between
2 . . . citizens of different states." 28 U.S.C. § 1332(a)(1). Section
3 1446(c) provides that removal under section 1332(a) is proper "if the
4 district court finds, by the preponderance of the evidence, that the
5 amount in controversy exceeds [\$75,000]." 28 U.S.C. § 1446(c)(2)(B).
6 Courts strictly construe the removal statute, and "[f]ederal
7 jurisdiction must be rejected if there is any doubt as to the right
8 of removal in the first instance." *Gaus v. Miles, Inc.*, 980 F.2d 564,
9 566 (9th Cir. 1992) (citing *Libhart v. Santa Monica Dairy Co.*, 592
10 F.2d 1062, 1064 (9th Cir. 1979)).

11 Because of the "'strong presumption' against removal jurisdiction
12 . . . the defendant always has the burden of establishing that removal
13 is proper." *Gaus*, 980 F.2d at 566 (quoting *Nishimoto v. Federman-*
14 *Bachrach & Assocs.*, 903 F.2d 709, 712 n.3 (9th Cir. 1990)); see also
15 *Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373, 376 (9th Cir.
16 1997). To meet this burden, the removing party must either demonstrate
17 that it is facially evident from the plaintiff's complaint that the
18 plaintiff seeks more than \$75,000, or provide evidence establishing
19 that it is "more likely than not" that the amount in controversy
20 exceeds \$75,000. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117
21 (9th Cir. 2004) (citing *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d
22 398, 404 (9th Cir. 1996)). Conclusory allegations regarding the
23 amount in controversy are insufficient. *Matheson v. Progressive*
24 *Specialty Ins. Co.*, 319 F.3d 1089, 1090-91 (9th Cir. 2003).

25 Plaintiffs' complaint does not demand a dollar amount. (#1-1).
26 The only monetary amount addressed in the complaint is that Defendant
27 Adams is "presently in arrearages in her payments and owes the sum of
28 \$5,199.20 to the Hawkins Family Trust and a continuing duty to pay

1 33 1/3% of her monthly widow's benefits." (#1-1 at ¶ 11). Thus, as
2 plaintiffs do not aver damages exceeding \$75,000, it is defendant's
3 burden to establish by a preponderance of the evidence that the amount
4 in controversy exceeds the jurisdictional amount of \$75,000.

5 Adams has failed to establish by a preponderance of the evidence
6 that a "continuous duty to pay the heirs 33 1/3% of any benefits she
7 receives *ad infinitum* as long as Defendant Adams lives and receives
8 benefits" is an amount in excess of \$75,000. (#10 at 2). The current
9 claim is for \$5,199.20 representing alleged arrearages. The balance
10 of the claim is indefinite and speculative and is contingent on how
11 long Adams may live and the amount of the benefits Adams may receive.

12 Accordingly, plaintiffs' motion to remand (#7) is **GRANTED** and
13 this action is hereby remanded to the Second Judicial District Court
14 of Nevada in and for the County of Washoe.

15 IT IS SO ORDERED.

16 DATED: This 31st day of December, 2015.

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18 UNITED STATES DISTRICT JUDGE
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